UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
McALLEN DIVISION

UNITED STATES OF AMERICA	§	
	§	
v.	§	**Criminal No.** M-17-511
	§	
BRENDA DE LA CRUZ	§	

CRIMINAL INFORMATION

THE UNITED STATES ATTORNEY CHARGES:

At all times material to this Information:

THE MEDICARE PROGRAM

1. The Medicare program (Medicare) is a federally funded health care program designed to provide medical care to individuals over age 65 and individuals with disabilities. Medicare is administered by the Centers for Medicare and Medicaid Services (CMS), a federal agency under the U.S. Department of Health and Human Services (HHS). Medicare is a "health care benefit program" as defined by Title 18, United States Code, Section 24(b).

2. Medicare is divided into multiple Parts: Medicare Part A (hospital insurance) and Medicare Part B (medical insurance). Medicare Part A covers inpatient hospital, inpatient skilled nursing, inpatient hospice, and some home health care services. Medicare Part B covers physician's services and outpatient beneficiary care, including some home health care services. Among the types of reimbursable medical assistance available to covered persons is Home Health Care.

3. Individuals who qualify for Medicare benefits are commonly referred to as "beneficiaries." Each beneficiary is given a Medicare identification number, referred to as a

Health Insurance Claim Number (HICN).

4. Home Health companies, pharmacies, physicians, and other health care providers that provide services to Medicare beneficiaries are referred to as "providers." To participate in Medicare, a provider is required to submit an application in which the provider agrees to comply with all Medicare related laws and regulations. If Medicare approves a provider's application, Medicare assigns the provider a National Provider Identification (NPI) number. A health care provider with a Medicare NPI number can file claims with Medicare to obtain reimbursement for medically necessary services rendered to beneficiaries.

5. Once Medicare approves a provider's application, the provider is supplied with a current copy of the Medicare Part A and Part B Provider Manuals. In addition, Medicare provides further guidance and updates in the form of bulletins and newsletters which are distributed to health care providers. The Medicare Provider Manuals, bulletins, and newsletters contain the laws, rules, and regulations pertaining to Medicare-covered services including those rules and regulations regarding the requirements pertaining to providing and billing for home health care.

THE DEFENDANT

6. Defendant BRENDA DE LA CRUZ was a resident of Hidalgo County, Texas and worked as a marketer for home health agencies within the McAllen Division of the Southern District of Texas.

7. Defendant BRENDA DE LA CRUZ conspired with others in the submission of false or fraudulent claims to Medicare for home health services which were initiated through fraudulent means, namely through illegal kickbacks, and/or were not medically necessary.

MEDICARE BILLINGS AND PAYMENTS

8. From on or about May 29, 2009 through on or about June 29, 2012, the defendant, BRENDA DE LA CRUZ, caused others to submit false or fraudulent claims to Medicare for home health services which were initiated through fraudulent means, namely through illegal kickbacks, and/or were not medically necessary.

COUNT ONE
CONSPIRACY TO COMMIT HEALTH CARE FRAUD
(18 U.S.C. § 1349)

9. The charge incorporates by reference paragraphs 1 through 8 as though fully restated and re-alleged herein.

10. Beginning on or about May 29, 2009 through on or about May 17, 2016, in the McAllen Division of the Southern District of Texas and elsewhere within the jurisdiction of the Court, the exact dates being unknown, defendant,

BRENDA DE LA CRUZ

did conspire and agree with other persons known and unknown, to knowingly and willfully, in violation of Title 18, United States Code, Section 1347, execute a scheme and artifice to defraud the health care benefit program known as Medicare or to obtain, by false or fraudulent pretenses, representations, or promises, any of the money and or property owned by or under the control of said health care benefit programs in connection with the delivery of or payment for health care benefits, items, and medical services.

All in violation of Title 18, United States Code, Sections 1349 and 1347.

OBJECT OF CONSPIRACY

11. The object and purpose of the conspiracy and scheme was to defraud the health care benefit program known as Medicare, and to obtain by false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of the health care benefit program known as Medicare, in connection with the delivery of, or payment for, health care benefits, items, or medical services.

MANNER AND MEANS

12. In order to execute and carry out their illegal activities, defendant BRENDA DE LA CRUZ conspired with others and committed, aided and abetted the commission, or otherwise caused others to commit, one or more of the following acts:

(a) In violation of Medicare guidelines and the anti-kickback statute, the defendant and others executed a scheme whereby they solicited and obtained illegal kickbacks, specifically cash money, in exchange for patient referrals to prospective home health agencies.

(b) It was the object of the scheme to defraud for the defendant to unlawfully enrich herself by receiving kickbacks in exchange for the referral of Medicare beneficiaries, whose information would be used by home health agencies to bill Medicare for a variety of health care items and/or services.

(c) Additionally, the Medicare beneficiaries, who were referred in exchange for the illegal kickbacks, often did not qualify for home health services, and the defendant submitted the beneficiaries' information to the home health agencies, knowing they did not qualify for home health services.

(d) It was a reasonably foreseeable consequence that the home health agencies would submit claims with Medicare based upon the fraudulent home health referral forms conveyed to them by the defendant.

(e) During and in relation to their fraudulent conduct, the defendant and others knowingly transferred, possessed, or used or knowingly caused others to transfer, possess, or use, without lawful authority, one or more means of identification of Medicare beneficiaries which she and/or others used to execute their scheme and artifice to commit health care fraud.

All in violation of Title 18, United States Code, Sections 1349 and 1347.

ABE MARTINEZ
ACTING UNITED STATES ATTORNEY

Andrew R. Swartz

ANDREW R. SWARTZ
ASSISTANT UNITED STATES ATTORNEY

Michael E. Day wr/ans

MICHAEL E. DAY
ASSISTANT UNITED STATES ATTORNEY